THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.10867 OF 2006

DATED: 28-08-2007

BETWEEN

Smt. Kona Lakshmi,
W/o. Late Sri K. Narasimha Murthy,
R/o. H.No.55-8-30/A,
K.R.M. Colony, Seethammadhara,
Visakhapatnam and others.

...PETITIONERS

AND

The Commissioner of Police,
Visakhapatnam City,
Visakhapatnam and two others.

...RESPONDENTS

ORDER:

Petitioners submit that they are in lawful possession and enjoyment of the property bearing Door No.55-8-30/A, S.No.4/2, Seethammadhara, Visakhapatnam. They further submit that the suit filed by them in O.S.No.1725 of 2005 on the file of the II Additional Senior Civil Judge, Visakhapatnam against the third respondent for permanent injunction has been decreed and no appeal has been preferred against the decree. They further submit that the police is illegal interfering with the civil disputes over the said property at the instance of the third respondent.

2. The Inspector of Police – second respondent filed a counter stating that the one Kumar Raju, a representative of the petitioners, lodged a complaint against the third respondent and some others about the alleged interference at the disputed site, but subsequently they have not at all

pursued the matter. Based on the said complaint, it is stated, that except registering a case in Cr.No.303 of 2006 under Section 107 of the Code of Criminal Procedure, the police never interfered with the civil disputes over the said property and the police never entered into the site and they never broke open the lock and threw all their belongings.

3. I am of the opinion that if the police resort to such illegal action necessary action requires to be taken against them provided the petitioner makes a representation before the superior officers.

I am of the opinion that even registering a case under Section 107 Cr.P.C for binding over of the persons for maintaining peace and tranquility will not empower the police to interfere with the civil disputes.

The writ petition is accordingly disposed of directing the police not to interfere with the civil disputes of the petitioner over the said property. There shall be no order as to costs.

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V. ESWARAIAH, J

August 28, 2007
DSK

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